

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 652 - HB 957

March 29, 2011

SUMMARY OF BILL: Requires the Department of Human Services (DHS) to implement a program of substance abuse testing for adults as a condition for public assistance eligibility if reasonable cause is present and such testing is not prohibited by federal law or waiver. Requires DHS to provide notice of positive test results and authorizes individuals to appeal the denial or cessation of public assistance benefits. Prohibits an individual who has tested positive from receiving benefits for a period of one year, unless such individual has not previously tested positive for the use of a controlled substance and completes a drug treatment program. Requires the tests to be paid by the person being tested. Prohibits adult recipients of public assistance benefits convicted of a Class A misdemeanor or a felony involving controlled substances from receiving benefits for a period of three years. Requires DHS to report on the testing program to the Senate General Welfare, Health and Human Resources Committee and the House Health and Human Resources Committee by January 1, 2012, and each January 1 thereafter.

ESTIMATED FISCAL IMPACT:

**Increase State Revenue – \$574,800/FY11-12
\$1,149,500/FY12-13
\$689,700/FY13-14 and Subsequent Years**

**Increase State Expenditures – \$2,758,800/FY11-12
\$3,886,600/FY12-13
\$2,434,700/FY13-14 and Subsequent Years**

Increase Federal Expenditures – Net Impact – Not Significant

Assumptions:

- The proposed legislation will apply to adult recipients of Temporary Assistance for Needy Families (TANF), Low Income Energy Assistance Program (LIHEAP), Weatherization Assistance Program (WAP) and the Community Services Block Grant (CSBG).
- Recipients of Food Stamps, Child and Adult Care Food Program, and TennCare programs are exempt from the provisions of this bill due to the prohibition of federal law.

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- Department of Human Services (DHS) will establish a chain of custody for the collection of samples for testing. Cost to print forms will be \$9,384 and cost to purchase supplies (gloves, cleaning supplies, paper products) will be \$10,000.
- Modification of the TANF eligibility system (VIP) which will replace the current ACCESS system will require 900 contracted man-hours for analysis, design and testing at a cost of \$101 per hour for a total one-time state expenditure of \$90,900 ($900 \times \101) and \$18,180 in recurring maintenance costs ($\$90,900 \times 20\%$).
- DHS will develop a tracking system to track drug testing and penalties and assist in issuing notifications and collecting data for the annual report. The development will require 325 contracted man-hours at a cost of \$79 per hour for a total one-time state expenditure of \$25,675 ($325 \times \79) and \$5,135 in recurring maintenance costs ($\$25,675 \times 20\%$).
- DHS will contract with a vendor to develop training to enable staff to consistently recognize a reasonable suspicion that the recipient engages in the illegal use of illicit drugs, administer a drug test, and maintain the chain of custody of the test samples. One-time state expenditures associated with the training will be \$25,000 with a recurring cost of \$7,500 for ongoing annual training.
- According to DHS, 25 percent of the adult TANF (48,000), LIHEAP (169,100), WAP (2,100) and CSBG (250,000) caseload will be drug tested annually. This will result in DHS conducting 117,300 ($469,200 \times 25\%$) drug tests at a cost of \$8 per test, resulting in a recurring increase in state expenditures of \$938,400 ($117,300 \times \8). Tested individuals will pay for the cost of the test, resulting in a recurring increase in state revenue of \$938,400.
- Based on the information provided by the Department of Mental Health, DHS estimates that 10 percent of the drug tests, or 11,730 ($117,300 \times 10\%$), will result in a positive test and require retesting. Samples required to be retested will be shipped to laboratories with a postage cost of \$5.20 per test, resulting in a total recurring postage cost of \$60,996 ($11,730 \times \5.20), paid by DHS. Retesting is estimated to cost \$18 per test, resulting in a recurring increase in state expenditures of \$211,140 ($11,730 \times \18). Tested individuals will pay for the cost of retesting, resulting in a recurring increase in state revenue of \$211,140.
- DHS will implement a process of accountability that ensures that all funds are properly collected, deposited and recorded. To record the collection of the funds in Edison, DHS will purchase cashiering equipment for each office with a one-time cost of \$434,600.
- Eighty-five percent, or 9,971 ($11,730 \times 85\%$), of the retested samples will result in a positive test requiring the Department to notify these individuals of their rights to appeal as provided in the proposed legislation. This will result in a recurring annual cost of \$5,185 for postage and handling at \$.52 per notice ($9,971 \times \$.52$).
- Seventy percent, or 6,979 ($9,971 \times 70\%$), of individuals tested positive on the retest will file an appeal.
- In FY09-10, DHS had 197 staff working on 44,500 appeals, for an average of 226 appeals per employee. DHS will hire 31 additional staff ($6,979 / 226$) to address the increased number of appeals as a result of drug testing program.
- Recurring costs associated with the 31 additional positions will be \$2,048,493 for salary (\$1,378,022), benefits (\$483,671), office space (\$118,700), network connections (\$47,500), postage (\$14,000) and office supplies (\$6,600).

- One-time costs will be \$116,100 consisting of office landscaping (\$87,000), computer costs (\$23,800), and wiring connections (\$5,300).
- DHS will hire 27 additional staff to coordinate the drug testing program for LIHEAP, WAP, and CSBG programs. Recurring costs associated with the additional staff will be \$911,181 for salary (\$469,800), benefits (\$256,981), office space (\$121,500), network connections (\$47,500), and office supplies (\$15,400).
- One-time costs will be \$118,800 consisting of office landscaping (\$89,100), computer costs (\$24,300), and wiring connections (\$5,400).
- DHS will also require four additional staff in urban areas to coordinate the activities of the program and compile and analyze data. Recurring costs associated with these four additional positions will be \$150,698 for salary (\$97,200), benefits (\$44,298), network connections (\$7,200), and office supplies (\$2,000).
- One-time costs will be \$4,400 consisting of computer costs (\$3,600) and wiring connections (\$800).
- DHS estimates that 90 percent of appeals will conclude in the sanction of benefits resulting in sanctions to 949 eligible TANF adults $[(48,000 \times 25\% \times 10\% \times 85\%) - (1,020 \times 70\% \times 10\%)]$. Monthly adult portion of TANF benefits is \$43. Total annual savings to the Department as a result of these sanctions will be \$489,684 $(949 \times \$43 \times 12)$. TANF savings must be spent on TANF eligible expenses, so they will be available to offset TANF costs associated with the new drug testing program.
- Due to federal regulations, savings to the LIHEAP, WAP, and CSBG programs as a result of enrollees testing positive for drug use would not be able to be used to offset the increase in expenditures of the program. There will be 8,324 sanctions under these programs, resulting in total federal savings of \$1,950,000. Federal savings realized in the LIHEAP, WAP, and CSBG programs would be made available to serve additional eligible individuals resulting in a not significant net impact to federal expenditures through these programs.
- For FY12-13 we will see a total increase in state expenditures of \$3,886,607 $(\$938,400 + \$211,140 + \$9,384 + \$10,000 + \$18,180 + \$5,135 + \$7,500 + \$60,996 + \$5,185 + \$2,048,492 + \$911,181 + \$150,698 - \$489,684)$, and a total increase in state revenue of \$1,149,540 $(\$938,400 + \$211,140)$.
- Since the legislation will take effect on January 1, 2012, the fiscal impact for FY11-12 will be equal to 50 percent of the first full-year impact plus one-time costs. Total increase in state expenditures in FY11-12 will be \$2,758,779 $[(\$3,886,607 / 2) + (\$90,900 + \$25,675 + \$25,000 + \$116,100 + \$118,800 + \$4,400 + \$434,600)]$. Total increase in state revenue will be \$574,770 $(\$1,149,540 / 2)$.
- According to a 1996 study by the National Institute of Alcohol Abuse and Alcoholism, differences between the proportion of welfare and non-welfare recipients using, abusing, or dependent on alcohol or illicit drugs are statistically insignificant.
- According to the 2009 National Survey on Drug use and Health, the rate of current illicit drug use among persons aged 18 or older in 2009 was 8.5 percent.
- DHS expects to see a decline in the number of eligible adults tested as the perception of the general public and DHS staff about relatively high drug use among public assistance recipients diminishes.

- Starting with FY13-14, it is estimated that 15 percent, or 70,380 (469,200 x 15%), of the caseload will be tested annually, with 10 percent, or 7,038 (70,380 x 10%), retested and 85 percent, or 5,982 (7,038 x 85%), will test positive for the second time.
- 70 percent, or 4,188 (7,038 x 70%), of individuals tested positive on the retest will file an appeal and 90 percent of appeals will result in sanctions of benefits.
- Staff requirements will decrease accordingly and the reduced caseload will require a total of four program coordinators in urban areas, 17 employees to coordinate the drug testing program for LIHEAP, CSBG and WAP programs and 19 employees to address the appeals.
- Total annual state expenditures in FY13-14 and subsequent years will be \$2,434,707 and will consist of the following:
 - \$11,630 for printing forms and purchasing supplies;
 - \$7,500 for annual training;
 - \$18,180 for VIP annual maintenance;
 - \$5,135 for tracking system development annual maintenance;
 - \$563,040 for drug testing (70,380 x \$8);
 - \$126,684 for retesting (7,038 x \$18);
 - \$36,598 for sample testing postage cost (7,038 x \$5.20);
 - \$3,111 (5,982 x \$.52) for positive test notices, postage, and handling,
 - \$150,698 for salaries (\$97,200), benefits (\$44,298), network connections (\$7,200) and office supplies (\$2,000) of the four program coordinators;
 - \$573,703 for salaries (\$295,800), benefits (\$161,803), network connections (\$29,900), office supplies (\$9,700) and office space (\$76,500) of the 17 drug testing coordinators;
 - \$1,232,115 for salaries (\$826,813), benefits (\$290,202), network connections (\$29,300), office supplies (\$4,100), office space (\$73,100) and postage (\$8,600) for the 19 appeals staff;
 - \$293,687 offset in TANF savings as a result of 569 annual sanctions of benefits for TANF recipients.
- Total annual state revenue in FY13-14 and subsequent years will be \$689,724 and will consist of \$563,040 for drug testing and \$126,684 for retesting.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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